DETAILED ACTION

Status of Claims

1. The Examiner would like to **withdraw** the previous Non-final Office Action sent out on **03/24/2008** in reply to the preliminary amendment (claims 1-47), which appears to have been mistakably dated as 09/15/2006. See interview summary for details.

2. This is a new action is in reply to the application filed on 10/02/2003 and the subsequent preliminary amendment filed on 10/17/2005.

3. Claims 48-50 have been added.

4. Claims 1-50 are currently pending and have been examined.

Information Disclosure Statement

5. The Information Disclosure Statements filed on 02/12/2004 and 10/17/2005 have been considered. An initial copy of the Form 1449 is enclosed herewith.

Specification

1. Claims 7, 8, and 9 are objected to because of the following informalities: The applicant has disclosed "said first and second subsets.” The applicant should write "said first and said second subsets” instead. Appropriate correction is required.

2. Claims 15 and 16 are objected to because of the following informalities: The applicant has disclosed "said first and second edges.” The applicant should write "said first and said second edges” instead. Appropriate correction is required.

3. Claims 23, 24, and 25 are objected to because of the following informalities: The applicant has disclosed "said second and third contact edges.” The applicant should write "said second and said third contact edges” instead. Appropriate correction is required.

4. Claims 27, 28, and 29 are objected to because of the following informalities: The applicant has disclosed "said first, second, and third contact edges." The applicant should write "said first, said second, and said third contact edges" instead. Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 recites "each number" in “each number inclusive of a shared needle point.” It is unclear what the applicant means by "each number." Does the applicant mean "each needle tip" or “each contact edge”?

3. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what the applicant means by “wherein the needle points of the 1.5/1 to 3/1 first and contact edges.” Does the applicant mean “wherein the needle points of the first and second contact edges are in a ratio of 1.5/1 to 3/1"?

4. Claims 35 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear what the applicant means by “different.”

5. Claim 39 recites the limitation "said" in “said relative distances.” There is insufficient antecedent basis for this limitation in the claim.

6. Claim 46 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 14 recites "non-linear" in “non-linear contact edging.” It is unclear what the applicant means by "non-linear."

Claim rejections below were made as best understood by the examiner in light of the rejections under 35 U.S.C. 112, second paragraph.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3, 5-6, 10-11, 13-16, 19-20, 21-27, 30, 32, 33-37, 39-41, and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Lawson et al. (US 6,030,404) or Lawson herein.

Regarding claim 1 Lawson discloses "needle device" or an array of elongated needles (Fig. 3, component 9) each having a pointed application end (11). Lawson discloses a first subset (Fig. 4a) with pointed application ends (11) arranged along a first contact edge and a second subset (Fig. 4a) with pointed application ends (11) arranged along a second contact edge that is non-coincident with the first contact edge. Applicant should note that the subsets in claim 1 have been redefined as pertaining to different dependent claims presented below.

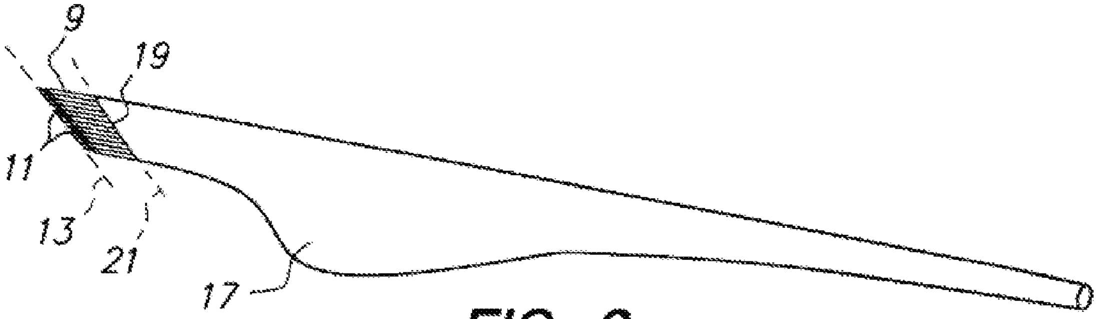

FIG. 3

9. Regarding claim 2, Lawson discloses that the first contact edge (Fig. 4a) is arranged along a horizontal line (Fig. 4a) when the needle device is vertically oriented.

10. Regarding claim 3, Lawson discloses a second contact edge extends obliquely relative to first contact edge arranged along the horizontal line (Fig. 4a).

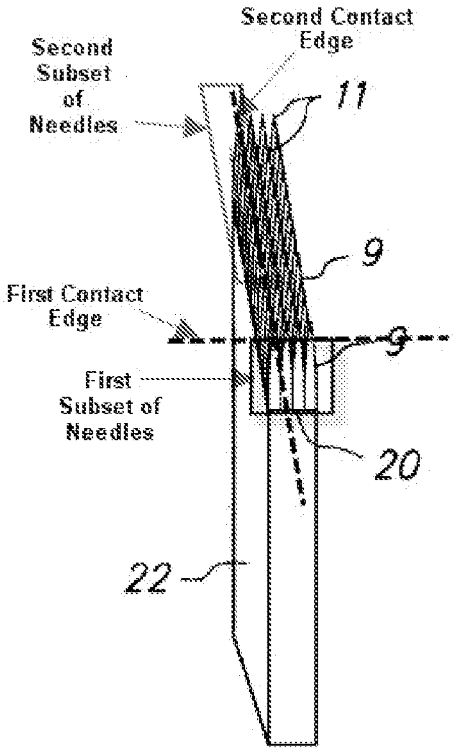

FIG. 4a

11. Regarding claim 5, Lawson discloses second contact edge defines an angle of 15° to 75° (col. 2, ln 50-55), which also includes an angle of 20° to 50°.

12. Regarding claim 6, Lawson discloses second contact edge defines an angle of 15° to 75° (col. 2, ln 50-55), which also includes an angle of 30° to 45°.

13. Regarding claim 10, Lawson discloses a first subset of needles that presents a different number of needle points along the first contact edge relative to the second contact edge (see Fig. 4a).

14. Regarding claim 11, Lawson discloses a first contact edge is arranged along a horizontal line and second contact edge extends obliquely up away from said horizontal line and has a greater number of needle points than the noodle points defining the first contact edge (see Fig. 4a).

15. Regarding claims 13-15, the subsets of claim 1 have been reinterpreted. Lawson discloses "needle device" or an array of elongated needles (Fig. 3) each having a pointed application end (11). Lawson discloses a first subset (Fig. 4b) with pointed application ends (11) arranged along a first contact edge and a second subset (Fig. 4b) with pointed application ends (11) arranged along a second contact edge that is noncoincident with the first contact edge.

Regarding claim 13, Lawson discloses that the first contact edge extends obliquely up and away from a horizontal reference plane and the second contact edge extends obliquely up and away from the horizontal plane (see Fig. 4b).

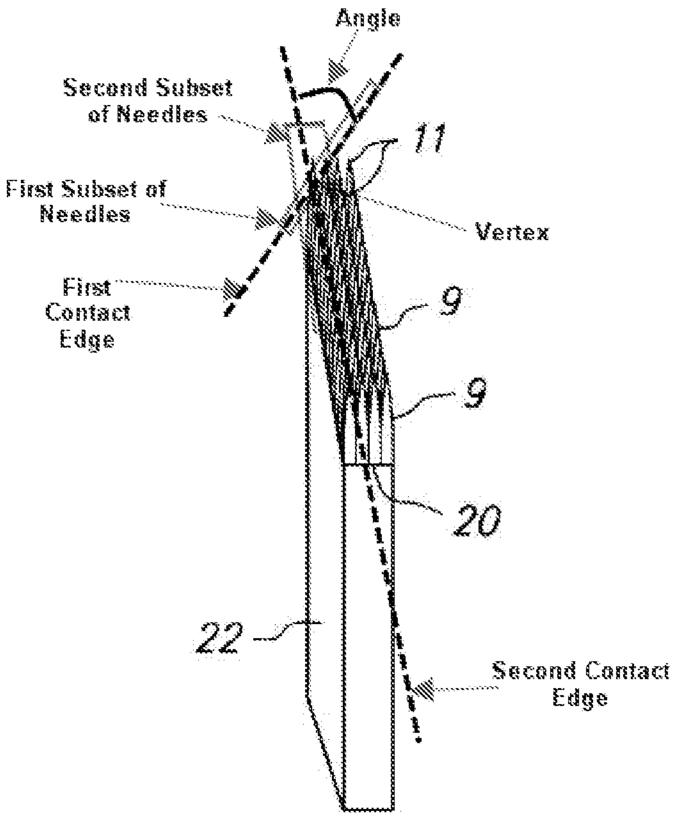

FIG. 4b

16. Regarding claim 14, Lawson discloses that the second contact edge presents 8 needle tips (see Fig. 4b) and the first contact edge presents 2 needle tips (Fig. 4b) with each number inclusive of a shared needle point.

17. Regarding claim 15, Lawson discloses a first and second contact edges that share a common single needle point edge representing a vertex of an angle defined by said obliquely oriented first and second contact edge (see Fig. 4b).

18. Regarding claim 16, the subsets of claim 1 have been reinterpreted. Lawson discloses “needle device” or an array of elongated needles (Fig. 3) each having a pointed application end (11). Lawson discloses a first subset (Fig. 4c) with pointed application ends (11) arranged along a first contact edge and a second subset (Fig. 4c) with pointed application ends (11) arranged along a second contact edge that is noncoincident with the first contact edge.

Regarding claim 16, Lawson discloses that the first and second contact edges have a different number of needles (see Fig. 4c).

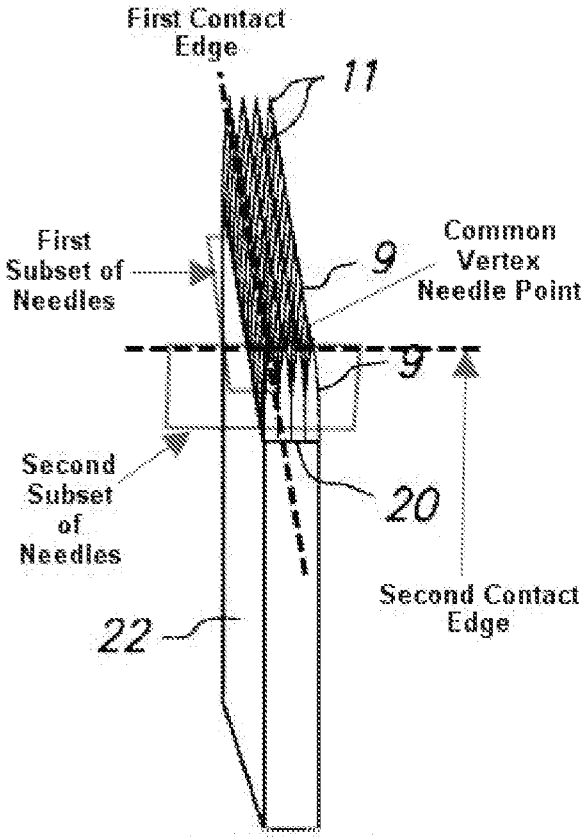

FIG. 4c

19. Regarding claims 19-20, the subsets of claim 1 have been reinterpreted. Lawson discloses "needle device" or an array of elongated needles (Fig. 3) each having a pointed application end (11). Lawson discloses a first subset (Fig. 4d) with pointed application ends (11) arranged along a first contact edge and a second subset (Fig. 4d) with pointed application ends (11) arranged along a second contact edge that is non-coincident with the first contact edge.

Regarding claim 19, Lawson discloses that the adjacent needles in the needle set are fixed together and lie in a common plane (Fig. 4d).

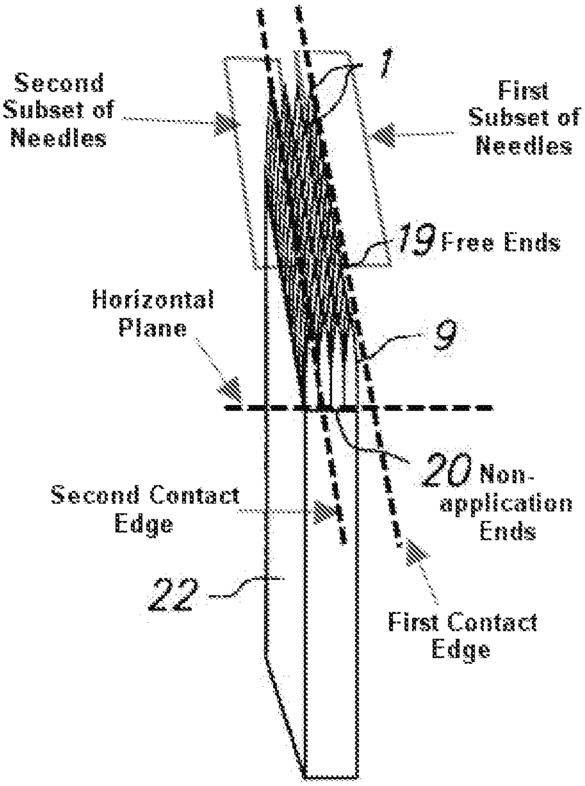

FIG. 4d

20. Regarding claim 20, Lawson discloses that the needles (9) are fixed together at the non-application ends (20) of the needle set, and free ends (19) of the non-application ends lie along edge lines that are parallel to first and second contact edges (Fig. 4d).

21. Regarding claims 21-27, 30, and 32, the subsets of claim 1 have been reinterpreted. Lawson discloses “needle device” or an array of elongated needles (Fig. 3) each having a pointed application end (11). Lawson discloses a first subset (Fig. 4e) with pointed application ends (11) arranged along a first contact edge and a second subset (Fig. 4e) with pointed application ends (11) arranged along a second contact edge that is non-coincident with the first contact edge.

Regarding claim 21, Lawson discloses, a third sub-set of needles having pointed application ends arranged non-coincident with respect to the first and second contact edges (Fig. 4e).

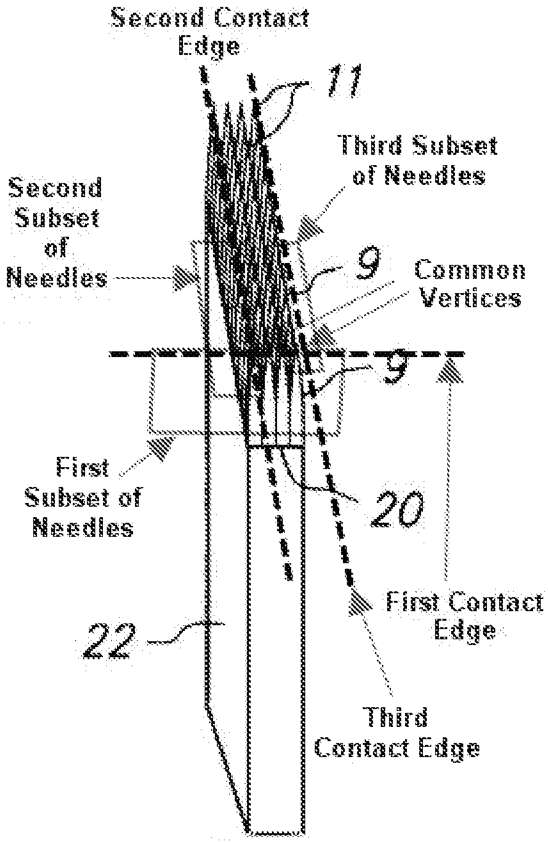

FIG. 4e

22. Regarding claim 22, Lawson discloses a first contact edge that is angled along a horizontal line, where second contact edge extends obliquely up away from the horizontal line to one side of the first contact edge and the third contact edge extends obliquely from the horizontal line to a second side of said first contact edge (see Fig. 4e).

23. Regarding claim 23, Lawson discloses that the second and third contact edges have different slope angles (col. 2, ln 50-55).

24. Regarding claim 24, Lawson discloses an angle of alignment of tips 15° to 75°, which also includes a 10° angle difference between second and third contact edges (col. 2, ln 50-55) (see Fig. 4e).

25. Regarding claim 25, Lawson discloses a second contact edge having a 30° angle and third contact edge having a 45° angle by including a range of angles (15° to 75°) for the alignment of tips (col. 2, ln 50-55) (see Fig. 4e).

26. Regarding claim 26, Lawson discloses the first contact edge extending along a horizontal line, and the second contact edge extending obliquely from a common needle point with the first contact edge and the third contact edge has a different slope than second contact edge (Fig. 4e) by including a range of angles (15° to 75°) for the alignment of tips and contact edges (col. 2, ln 50-55).

27. Regarding claim 27, Lawson discloses that the contact edges have a different number of needles (see Fig. 4e).

28. Regarding claim 30, Lawson discloses a colorant implement apparatus (Fig. 3) that includes a needle device (9) and a tool (17) to support the needle device.

29. Regarding claim 32, Lawson discloses a colorant implement apparatus (Fig. 3) to perform a method of providing intradermal coloring to a recipient by supplying colorant to the needle device and penetrating a skin region of the recipient to alter coloring of the skin region (col. 3, ln 12-17).

30. Regarding claim 33, Lawson discloses a needle device (Fig. 3), which has a set of needles (9) that are arranged in a first and second sub-set of needles (Fig. 4e) with the first sub-set having a plurality of needle points (Fig. 4e) arranged along a first line of extension or a first contact edge and a second sub-set having a plurality of needle points arranged along a second line of extension or a second contact edge non-coincident with a first line of extension (Fig. 4e).

31. Regarding claim 34, Lawson discloses that the first and second lines of extension are oblique relative to a horizontal reference plane such as the first contact edge when the needle device is in a vertical orientation (Fig. 4e).

32. Regarding claim 35, Lawson discloses that the needles of the first sub-set are different than that of the second sub-set (Fig. 4e). Lawson states that each contact edge can be oriented at an angle of 15° to 75°, and needles can have varied lengths (col. 2, ln 53 – 62).

33. Regarding claim 36, Lawson discloses that the number of needle points in the first sub-set is different than that in the second sub-set (see Fig. 4e).

34. Regarding claim 37, Lawson discloses that the first line of extension or first contact edge is horizontal and the second line of extension or second contact edge is oblique relative to the first line of extension and the second line is defined by a greater number of needle points than that of said first sub-set (see Fig. 4e).

35. Regarding claim 39, Lawson discloses a needle device (Fig. 3) with a plurality of needles arranged in a common plane (Fig. 4f) and fixed in relationship to each other, where needles (9) presenting needle points (11) are arranged at different distances from a reference horizontal plane contacting a lower most needle point of plurality of needles and relative distances of the needle points are set so as to provide at least two different non-coincidental needle tip contact edges such as the second and the third contact edges (see Fig. 4f).

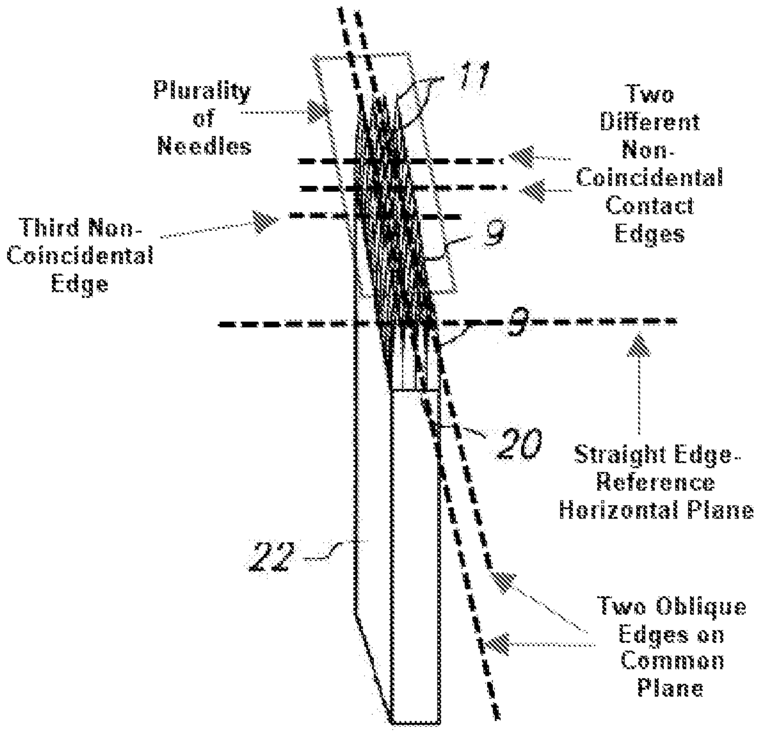
Plurality of Needles
11
Two Different Non-Coincidental Contact Edges
Third Non-Coincidental Edge
9
9
Straight Edge-Reference Horizontal Plane
20
22
Two Oblique Edges on Common Plane

FIG. 4f

36. Regarding claim 40, Lawson discloses three different non-coincidental edges (see Fig. 4f).

37. Regarding claim 41, Lawson discloses a straight edge and two oblique edges (see Fig. 4f).

38. Regarding claim 42, Lawson discloses a needle apparatus (Fig. 3) to perform the method of providing a number of individual needles in a side-by-side orientation in a die (col. 3, ln 10-20); adjusting the die so as to present an oblique line of needle points and one other non-coincident line of needle points (Fig. 4f) and fixing the needles in position relative to each other following adjusting the die (col. 3, ln 10-20).

39. Claims 43-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Chacornac (US 4,109,655).

Regarding claim 43, Chacornac discloses a needle device having a plurality of needles (Fig. 3) with said needles having needle points that are multi-faceted (see Fig. 20 & 21) and have increased area surface texture (col. 5, ln 13-25).

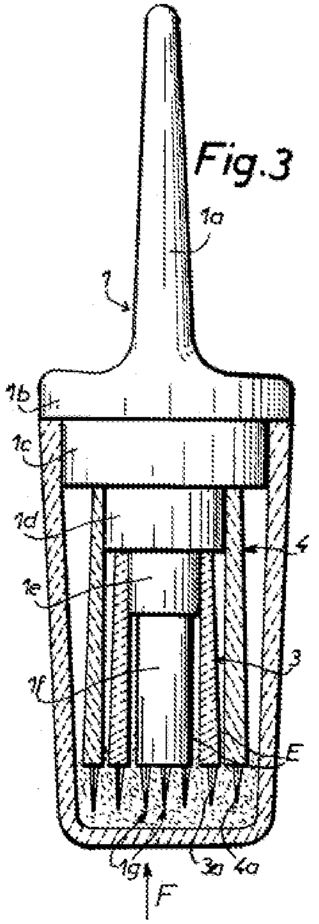
Fig.3

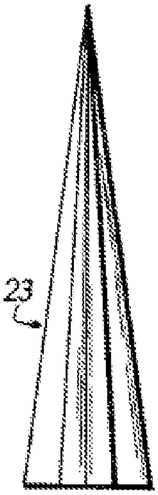

Fig.20

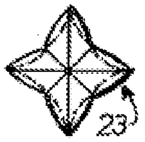

Fig.21

40. Regarding claim 44, Chacornac discloses a needle device where needle points are trocar points (see Fig. 20 & 21; col. 5, ln 13-25).

41. Regarding claim 45, Chacornac discloses a needle device wherein edges between trocar faces are rounded edges (Fig. 21) extending for at least 5% of an overall circumference extending along the edges (col. 5, ln 17-25).

Claim Rejections - 35 USC § 103

42. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

43. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

44. Claim 4, 12, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson et al. (US 6,030,404) or Lawson herein.

Regarding claim 4, Lawson discloses second contact edge defines an angle of 15° to 75°, but fails to explicitly disclose an angle of 10° to 60° relative to the horizontal line. However, it is recognized that 10° to 60° is an optimal workable range for angles of a needle. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include 10° to 60° relative to the horizontal line, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller,* 105 USPQ 233.

45. Regarding claim 12, Lawson discloses different number of needle points on the first and the second contact edge, but fails to explicitly disclose that the ratio range of needle points of the second contact edge relative to the first contact edge is 2/1 to 6/1. However, it is recognized that 2/1 to 6/1 is an optimal workable ratio for the number of needles. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a range of ratio of 2/1 to 6/1 for a

second relative to a first contact edge, since it has been held that discovering an optimum ratio of a result effective variable (such as a needle point ratio) involves only routine skill in the art. In *re Boesch* 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

The motivation for doing so would have been to choose different ratios for needles such as 2/1 to 6/1 in order to better suit a person's skin type or the location on the body desired for tattooing and also give a greater versatility to the needle device. Therefore, it would have been obvious to combine Lawson and Egerer to obtain the invention as specified in the instant claim.

46. Regarding claim 17, Lawson discloses different number of needle points on the first and the second contact edge, but fails to explicitly disclose that the ratio range of needle points of the second contact edge relative to the first contact edge is 1.5/1 to 3/1. However, it is recognized that 1.5/1 to 3/1 is an optimal workable ratio for the number of needles. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a range of ratio of 1.5/1 to 3/1 for a second relative to a first contact edge, since it has been held that discovering an optimum ratio of a result effective variable (such as a needle point ratio) involves only routine skill in the art. In *re Boesch* 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

The motivation for doing so would have been to choose different needle ratios such as 1.5/1 to 3/1 in order to better suit a person's skin type or the location on the body desired for tattooing and also give a greater versatility to the needle device. Therefore, it would have been obvious to combine Lawson and Egerer to obtain the invention as specified in the instant claim.

47. Regarding claim 18, Lawson discloses that the number of needle points defining a first contact edge is 8 (see Fig. 4c) and the number of needle points defining said second contact edge is 4 with each inclusive of a common vertex needle point.

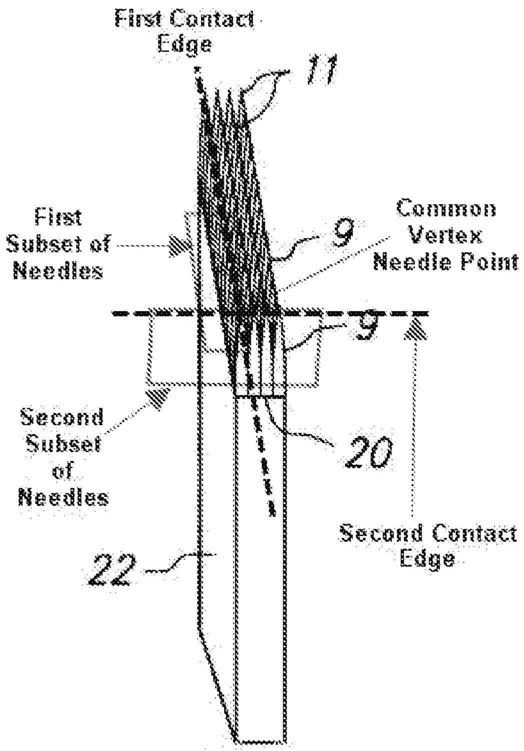

FIG. 4c

48. Claim 7-9 and 28-29 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson et al. (US 6,030,404) or Lawson herein in view of Egerer (US 3,685,101).

Regarding claim 7, Lawson discloses first and second sub-sets of needles (see Fig. 4a). Lawson does not appear to explicitly disclose that the needles are of different grades. However, Egerer discloses needles in needle strips that are of different grades (see Fig. 3, 6, 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made, having the teachings of Lawson and Egerer before him or her, to have included needles of different grades.

The motivation for doing so would have been to choose different grades or gauges of needle that best suits a person's skin type or the location on the body that is desired for tattooing. Therefore, it would have been obvious to combine Lawson and Egerer to obtain the invention as specified in the instant claim.

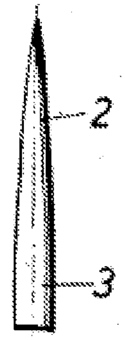

Fig.3

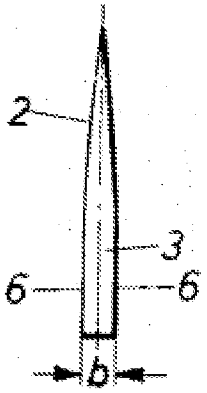

Fig.6

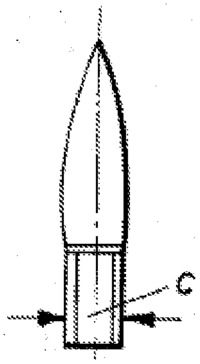

Fig.9

49. Regarding claim 8, Lawson discloses first and second sub-sets of needles (see Fig. 4a). Lawson does not appear to explicitly disclose that one of the first and second sub-sets has a finer taper than the other of the first and second sub-sets. However, Egerer discloses needles in needle strips that are of different grades (see Fig. 3, 6, 9) where one type of needle has a finer taper (Fig. 3) than another (Fig. 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made, having the teachings of Lawson and Egerer before him or her, to have included a subset that has a finer taper than the other subset of needles.

The motivation for doing so would have been to choose different needle gauges that also include finer taper subsets in order to better suit a person's skin type or the location on the body desired for tattooing. Therefore, it would have been obvious to combine Lawson and Egerer to obtain the invention as specified in the instant claim.

50. Regarding claim 9, Lawson discloses first and second sub-sets of needles (see Fig. 4a). Lawson does not appear to explicitly disclose that the finer taper sub-set of needles has a smaller shaft diameter than the other of the first and second sub-set of needles. However, Egerer discloses needles in needle strips that are of different grades and diameters (see Fig. 3, 6, 9) where one type of needle has a finer taper and a smaller shaft diameter (Fig. 3) than another (Fig. 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made, having the teachings of Lawson and Egerer

before him or her, to have included a subset that has a finer taper with smaller shaft diameter than the other subset of needles.

The motivation for doing so would have been to choose different needle gauges that also include finer taper subsets in order to better suit a person's skin type or the location on the body desired for tattooing and also give a greater versatility to the needle device. Therefore, it would have been obvious to combine Lawson and Egerer to obtain the invention as specified in the instant claim.

51. Regarding claim 28, Lawson discloses a first, second, and third contact edges defined by needle tips (see Fig. 4e). Lawson does not appear to explicitly disclose that the needles are of different grades. However, Egerer discloses needles in needle strips that are of different grades (see Fig. 3, 6, 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made, having the teachings of Lawson and Egerer before him or her, to have included needles of different grades.

The motivation for doing so would have been to choose different grades or gauges of needle that best suits a person's skin type or the location on the body that is desired for tattooing. Therefore, it would have been obvious to combine Lawson and Egerer to obtain the invention as specified in the instant claim.

52. Regarding claim 29, Lawson discloses a first, second, and third contact edges defined by needle tips (see Fig. 4e). Lawson does not appear to explicitly disclose that the needles are of different grades. However, Egerer discloses needles in needle strips that are of different grades (see Fig. 3, 6, 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made, having the teachings of Lawson and Egerer before him or her, to have included needles of different grades.

The motivation for doing so would have been to choose different grades or gauges of needle that best suits a person's skin type or the location on the body that is desired for tattooing. Therefore, it would have been obvious to combine Lawson and Egerer to obtain the invention as specified in the instant claim.

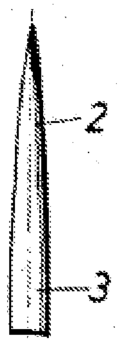

Fig.3

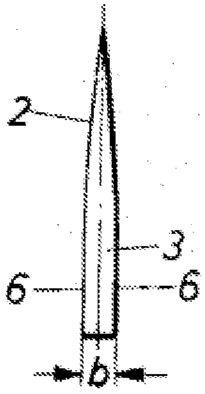

Fig.6

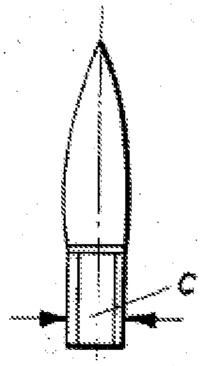

Fig.9

53. Regarding claim 38, Lawson discloses a first and second subset of needles. Lawson does not appear to explicitly disclose that the needle points of the second subset have a sharper taper than that of the first subset. However, Egerer discloses needles in needle strips that are of different grades (see Fig. 3, 6, 9), where needle shown in Fig. 3 has a sharper taper than needle shown in Fig.9. It would have been obvious to one of ordinary skill in the art at the time the invention was made, having the teachings of Lawson and Egerer before him or her, to have included needles of different grades in order for the second subset to have a sharper taper than that of the first subset.

The motivation for doing so would have been to choose different grades or gauges of needle that best suits a person's skin type or the location on the body that is desired for tattooing. Therefore, it would have been obvious to combine Lawson and Egerer to obtain the invention as specified in the instant claim.

54. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson et al. (US 6,030,404) or Lawson herein in view of Ratcliff et al. (US 5,800,445) or Ratcliff herein.

Regarding claim 31, Lawson discloses a colorant needle apparatus. Lawson does not appear to explicitly disclose that the tool has a needle reciprocating mechanism. However, Ratcliff discloses an actuator knob (40), an actuator piston (42), and actuator plunger (38) that allow the needles to be pushed out from an elongated tube (26). It would have been obvious to one of ordinary skill in the art at the time the invention was made having the teaching of Lawson and Ratcliff before him or her, to include a needle reciprocating mechanism (see Fig. 8).

The motivation for doing so would have been to provide a mechanism for moving the needles forward and backward so as to gain different lengths of needle protruding outside of the supporting body. This would also allow the needles to be hidden away when not in use to prevent any damage or harm to the tips.

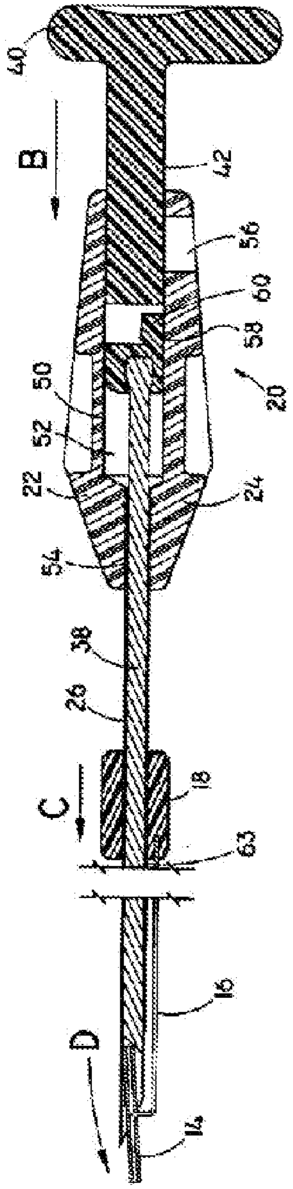

Fig. 8

55. Claims 46 – 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson et al. (US 6,030,404) or Lawson herein in view of Ginaven (US 5,457,041).

Regarding claim 46, Lawson discloses a needle device for use in intradermal color introduction (col. 1, ln 42-52 and col. 3, ln 10-20) comprising a set of needles (9) each having a pointed application end (11) where the set of needles define non-coincidental contact edging between a leftmost end needle and a rightmost end needle (see Fig. 4g) relative to a common plane defined by a needle set.

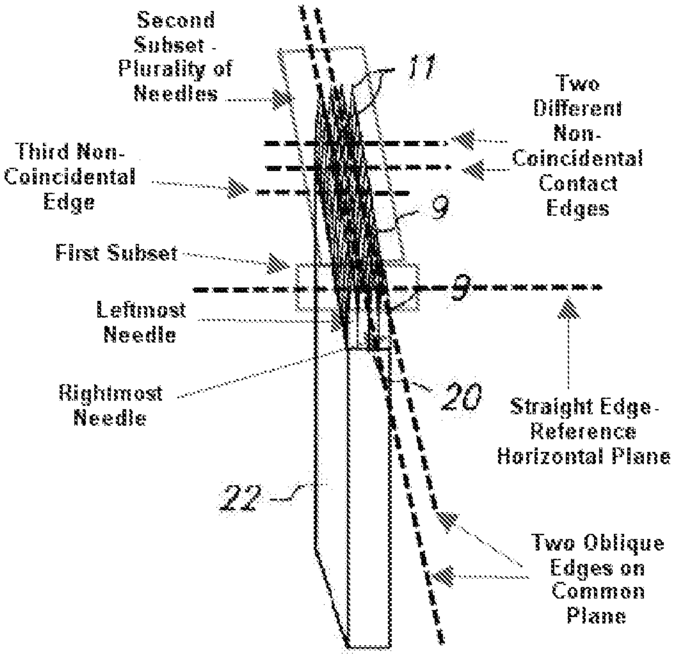
Second Subset - Plurality of Needles
11
Two Different Non-Coincidental Contact Edges
Third Non-Coincidental Edge
9
First Subset
9
Leftmost Needle
Rightmost Needle
20
Straight Edge - Reference Horizontal Plane
22
Two Oblique Edges on Common Plane

FIG. 4g

Lawson does not appear to explicitly disclose that a needle set defines a non-linear contact edging. However, Ginaven discloses jagged needle tips (col. 8, ln 7-10) between a leftmost tip to a rightmost tip. It would have been obvious to one of ordinary skill in the art at the time the invention was made having teachings of Lawson and Ginaven before him or her, to modify the needle apparatus of Lawson to include non-linear contact edges of Ginaven. The motivation for doing so would be to produce a needle apparatus to include a wide variety of contact edges to optimize the delivery of color to a surface.

56. Regarding claim 47, Lawson discloses a first subset of needles with pointed application ends arranged along a first contact edge and a second subset with pointed application ends arranged along a second contact edge that is non-coincident with the first contact edge (see Fig. 4g).

Lawson does not appear to explicitly disclose that a needle set defines a non-linear contact edging. However, Ginaven discloses jagged needle tips (col. 8, ln 7-10) between a leftmost tip to a rightmost tip. It would have been obvious to one of ordinary skill in the art at the time the invention was made having teachings of Lawson and Ginaven before him or her, to modify the needle apparatus of Lawson to include non-linear contact edges of Ginaven. The motivation for doing so would be to produce a needle apparatus to include a wide variety of contact edges to optimize the delivery of color to a surface.

57. Claims 48 – 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawson et al. (US 6,030,404) in view of Ginaven (US 5,457,041), further in view of Lum et al. (US Pub. No. 2001/0027328 A1).

Regarding claim 48, the combination of Lawson and Ginaven disclose the limitations as shown above, but do not disclose that the leftmost needle extends out a different length relative to the rightmost end needle. However, Lum et al. in at least paragraph [0031] disclose that the needles may be grouped in groups having different lengths. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the inventions of Lawson and Ginaven to include needles of different lengths on the left relative to the right ends, because it would "...improve the uniformity of penetration…the inner needles are able to penetrate sufficiently given the concave nature of the skin if not ideally taut." (Lum et al., paragrpah [0031]).

The combination of Lawson, Ginaven, and Lum et al. disclose the limitations as shown above. The combination does not explicitly disclose that the leftmost needle extends out a different length relative to the rightmost end needle. It would have been an obvious matter of design choice to include a non-centered extension needle, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose,* 105 USPQ 237 (CCPA 1955).

58. Regarding claim 49, the combination of Lawson, Ginaven, and Lum et al. disclose the limitations as shown above. Lum et al. in at least paragraph [0031] and Figure 4B, element #38 disclose an extension needle extending farther than all other needles. The combination do not disclose that the needle set includes an extension needle extending farther than all other needles in the set, with the extension needle being non-centered within the set of needles relative to a common plane for the set of needles.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the inventions of Lawson and Ginaven to include an extension needle extending farther than all other needles, because it would "...improve the uniformity of penetration…the inner needles are able to penetrate sufficiently given the concave nature of the skin if not ideally taut." (Lum et al., paragrpah [0031]).

The combination of Lawson, Ginaven, and Lum et al. disclose the limitations as shown above. The combination does not disclose that the extension needle is non-centered. It would have been an obvious matter of design choice to include a non-centered extension needle, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose,* 105 USPQ 237 (CCPA 1955).

59. Regarding claim 50, the combination of Lawson, Ginaven, and Lum et al. disclose the limitations as shown above. Lum et al. in at least paragraph [0031] disclose that that the needles may be grouped in groups having different lengths and in Figure 4B, element #38 further disclose an extension needle extending farther than all other needles. The combination does not disclose that the leftmost needle extends out farther than the rightmost needle and the extension needle is positioned between the leftmost needle and a center location of the needle relative to a common plane of the needles.

It would have been an obvious matter of design choice to include a leftmost needle that is longer than the rightmost needle and an extension needle that is located between the leftmost needle and a center location, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. *In re Rose,* 105 USPQ 237 (CCPA 1955).

Conclusion

60. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Robbins (US 2,840,076) discloses a surgical instrument for subcutaneous injection of liquefied pigments. Huang (US 6,206,270 B1) discloses a method of assembling needles for eyebrow makeup. Angres (US 4,508,106) discloses a method for applying a permanent or semi-permanent cosmetic eye liner by implanting a pigment solution by surgical procedure. Pitesky (US 5,931,794) discloses an allergen testing apparatus with multiple needle tips.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SHADI ALIKHANI whose telephone number is (571)270-5305. The examiner can normally be reached on Monday - Thursday 10AM - 4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Jackie Ho can be reached on 571-272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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